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MA

# United States Court of Appeals For the First Circuit

ENTERED

No. 05-1049  
DC No. 04-cv-40090

JOSEPH MARION HEAD, JR.,  
Plaintiff - Appellant,

v.

DAVID L. WINN, Warden, Federal Medical Center, Devens; UNKNOWN  
PARTIES, named as Each Governmental Employee Liable  
Relating Hereto,  
Defendants - Appellees.

ORDER OF COURT  
Entered: February 17, 2005

The appellant listed above is a prisoner seeking to appeal in forma pauperis and has applied to proceed without prepayment of the \$255 filing fee under the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(a)(2). Appellant has completed and filed a consent form permitting appropriate prison officials to calculate and collect in installments the \$255 filing fee from appellant's prison trust account in accordance with the terms of 28 U.S.C. §1915(b)(1) and (2).

1. Pursuant to the consent form signed by the appellant, the custodian of this appellant's inmate trust account is directed to **calculate, collect and forward to the Clerk of the United States District Court for the District of Massachusetts**, as payment for the initial partial filing fee under 28 U.S.C. §1915(b)(1), 20% of the greater of:

(a) the average monthly deposits to the inmate trust account; or

(b) the average monthly balance in the inmate trust account, for the 6 months immediately preceding the filing of the notice of appeal on November 18, 2004. That sum should be deducted from appellant's prison account until the initial partial filing fee is paid.

**CERTIFIED COPY**

2. After the initial partial filing fee is paid in full, pursuant to 28 U.S.C. §1915(b)(2) and the consent form executed by appellant, appellant's custodian is directed to calculate and remit each succeeding month on a continuing basis 20% of the preceding month's income credited to appellant's account, but only when the amount in the account exceeds \$10, until the full \$255 filing fee is paid. **Each payment shall reference the docket number of this appeal and the district court docket number and be paid to the district court.**

3. Appellant's custodian shall notify this court and the Clerk of the United States District Court if the appellant is transferred to another institution or released.

4. A copy of this order shall be sent to appellant's custodian and to the Clerk of the United States District Court for the District of Massachusetts. A copy of appellant's authorization shall be sent to the custodian.

For the court, by direction,

Richard Cushing Donovan, Clerk

**JULIE GREGG**

By: \_\_\_\_\_  
Operations Manager

[Certified copy to William Ruane, Acting Clerk of the USDC of MA,  
and John D. Colautti, Unit Manager, FMC Devens,  
cc: Messrs. Head, Sullivan]

**CERTIFIED COPY**

HEREBY CERTIFY THIS DOCUMENT  
IS A TRUE AND CORRECT COPY OF  
THE ORIGINAL ON FILE IN MY OFFICE  
AND IN MY LEGAL CUSTODY.

FIRST CIRCUIT COURT OF APPEALS  
BOSTON, MA

By: *R. Barchard* Date: 2/17/05

OFFICE OF THE CLERK  
 UNITED STATES COURT OF APPEALS  
 FOR THE FIRST CIRCUIT  
 UNITED STATES COURTHOUSE  
 1 COURTHOUSE WAY, SUITE 2500  
 BOSTON, MA 02210  
 (617) 748-9057

RE: 05-1049 Head v. Winn (District Court #04-40090)

To Be Filed By: 2/4/05

PRISONER TRUST ACCOUNT REPORT

Name: Joseph Marion Head Junior NUMBER: 17549-056

\*\*\*\*\*

TO: Trust Officer  
 FROM: Clerk, U.S. Court of Appeals for the First Circuit

Under the Prisoner Litigation Reform Act, a prisoner appealing a civil judgment must obtain from the trust officer of each institution in which the prisoner was confined during the preceding six months a **certified copy** of the prisoner's trust account statement for the six months prior to filing of the appeal.

Please complete this form, attach the supporting ledger sheets, and return these documents to the prisoner for mailing to the court in advance of the due date shown at the top of the form.

DATE OF FILING NOTICE OF APPEAL: 11/18/04

BALANCE at time of filing notice of appeal: 02

AVERAGE MONTHLY DEPOSITS during the six months prior to filing of the notice of appeal: \$243.<sup>88</sup>/<sub>100</sub>

AVERAGE MONTHLY BALANCE during the six months prior to filing of the notice of appeal: \$6.<sup>31</sup>/<sub>100</sub>

I certify that the above information accurately states the deposits and balances in applicant's trust account for the period shown. The attached ledger sheets for the six-month period prior to 11/18/04 are true copies of account records maintained in the ordinary course of business.

DATE: 1/27/2005

AUTHORIZED SIGNATURE: John D. Colanetti

NAME AND TITLE: John D. Colanetti, Unit Manager

ADDRESS: 42 Patten Road

P.O. Box 880

Ayer, MA 01432

RE: 05-1049 Head v. Winn (District Court #04-40090)

To Be Filed By: 2/4/05

PRISON LITIGATION REFORM ACT (PLRA) CONSENT FORM:  
CONSENT TO COLLECTION OF FEES FROM INMATE TRUST ACCOUNT

\*\*\*\*\*

I, Joseph Marion Head Junior, #17549-056, hereby give my consent that upon entry of a court order approving my application to proceed without prepayment of fees and setting the amount of the initial partial appellate filing fee, the appropriate prison officials shall collect from my prison account and pay to the appropriate district court an initial payment of twenty percent of the greater of:

- (a) the average monthly deposits to my account for the six-month period immediately preceding the filing of my notice of appeal; or
- (b) the average monthly balance in my account for the six-month period immediately preceding the filing of my notice period.

In satisfaction of the balance of the filing fee, I consent for the appropriate prison officials to collect from my account, on a monthly basis, an amount equal to twenty percent of the income credited to my account for the preceding month if the balance in the account for that month exceeds \$10. The appropriate officer shall forward the interim payment to the Clerk's Office,

U.S. District Court of MA  
1 Courthouse Way  
Boston, MA 02210

until such time as the filing fee\* is paid in full.

Executed on the 26 day of Jan, 05.

Joseph Marion Head Junior  
SIGNATURE OF APPELLANT

Joseph Marion Head Junior  
PRINT NAME

UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

RE: 05-1049 Head v. Winn (District Court #04-40090)

To Be Filed By: 2/4/05

2005 FEB -3 A 11:23

## MOTION TO PROCEED IN FORMA PAUPERIS

FILED IN CLERKS OFFICE  
US COURT OF APPEALS  
FOR THE FIRST CIRCUIT  
am

I, Joseph Marion Head Junior, am the Appellant in the above entitled case. In support of my motion to proceed on appeal without being required to prepay fees, I state that because of my poverty I am unable to prepay the costs of said proceeding or to give security therefor, that I believe I am entitled to redress, and that the issues that I desire to present on appeal are the following:

- (1) Was My Rights Etc. Violated As Asserted Within The Prison and Court Records In The Past 31 years?
- (2) Is The Lower Courts Orders Etc. Incorrect Or Violative of Law Or My Rights Etc.? (3) What Relief Is And Was Entitled And Not Entitled and Why?

I make this application with the understanding that I am liable under 28 U.S.C. Sec. 1915 for the full payment of all fees, costs, and sanctions imposed on this appeal; that such charges will be collected and paid from my prison trust account; and that any unpaid fees, costs, or sanctions will constitute a debt not dischargeable in bankruptcy.

I further swear that the responses that I have made on the attached financial affidavit relating to my ability to prepay the cost of prosecuting the appeal are true.

1-26-05  
DATE

Joseph Marion Head Junior  
SIGNATURE OF APPLICANT

Joseph Marion Head Junior  
PRINT NAME

Form 3

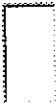
DOCKETED

**Inmate Inquiry**

**Inmate Reg #:** 17549056 **Current Institution:** Devens FMC  
**Inmate Name:** HEAD, JOSEPH **Housing Unit:** N SOMP  
**Report Date:** 01/27/2005 **Living Quarters:** N02-219U  
**Report Time:** 8:11:27 AM

[General Information](#) | [Account Balances](#) | [Commissary History](#) | [Commissary Restrictions](#) | [Comments](#)

**General Information**

Administrative Hold Indicator: No  
 No Power of Attorney: No  
 Never Waive NSF Fee: No  
 Max Allowed Deduction %: 100  
 PIN: 5438  
 FRP Participation Status: ExemptTmp  
 Arrived From:  
 Transferred To:  
 Account Creation Date: 2/15/2002  
 Local Account Activation Date: 7/1/1991  
 Sort Codes:   
 Last Account Update: 1/24/2005 5:51:13 PM  
 Account Status: Active  
 ITS Balance: \$0.00

**FRP Plan Information**

FRP Plan Type	Expected Amount	Expected Rate
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**Account Balances**

Account Balance:	\$0.02
Pre-Release Balance:	\$0.00
Debt Encumbrance:	\$0.00
SPO Encumbrance:	\$0.00
Other Encumbrances:	\$0.00

Outstanding Negotiable Instruments: \$0.00  
Administrative Hold Balance: \$0.00  
Available Balance: \$0.02  
National 6 Months Deposits: \$243.88  
National 6 Months Withdrawals: \$243.94  
National 6 Months Avg Daily Balance: \$6.31  
Local Max. Balance - Prev. 30 Days: \$14.70  
Average Balance - Prev. 30 Days: \$3.69

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## Commissary History

### Purchases

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Validation Period Purchases: \$19.67  
YTD Purchases: \$193.57  
Last Sales Date: 1/24/2005 5:51:13 PM

### SPO Information

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SPO's this Month: 0  
SPO \$ this Quarter: \$0.00

### Spending Limit Info

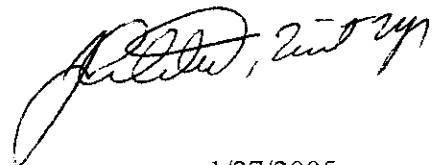
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Spending Limit Override: No  
Weekly Revalidation: No  
Spending Limit: \$290.00  
Expended Spending Limit: \$2.65  
Remaining Spending Limit: \$287.35

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## Commissary Restrictions

### Spending Limit Restrictions

A handwritten signature in black ink, appearing to read "J. [unclear], [unclear]".

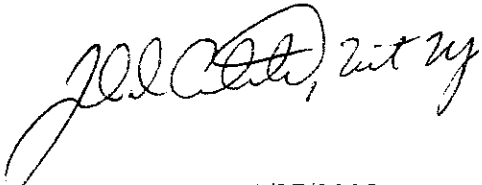
Restricted Spending Limit: \$0.00  
Restricted Expended Amount: \$0.00  
Restricted Remaining Spending Limit: \$0.00  
Restriction Start Date: N/A  
Restriction End Date: N/A

Item Restrictions

List Name	List Type	Start Date	End Date	Userid	Active
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## Comments

Comments:





## FINANCIAL AFFIDAVIT

In Support of a Motion to Proceed In Forma Pauperis

Case Name: Head v. WinnDocket Number: 05-1049 (District Court #04-40090)Are you now employed? ☐ Yes ☒ No ☐ Self Employed

Name &amp; Address of Employer: \_\_\_\_\_

IF YES, how much do  
you earn per month? \$ \_\_\_\_\_*Divorced over 30 years. Have not seen  
them in over 30 years.*

If married, is your spouse employed?

IF YES, how much does your spouse  
earn per month \$ \_\_\_\_\_IF NO, give month & year of  
last employment \_\_\_\_\_How much did you earn per  
month? \$ \_\_\_\_\_☐ Yes ☐ NoIf a minor under age 21, what  
is your parents' or  
guardian's approximate  
monthly income? \$ \_\_\_\_\_Have you received in the last 12 months any income from a business,  
profession, or other form of self-employment, or in the form of rent  
payments, interest, dividend, retirement or annuity payments, or other  
sources? ☒ Yes ☐ NoIF YES, give the amount Received: Sources:  
received and indentify sources: \_\_\_\_\_*see trust fund statement herewith*

Have you any cash on hand or money in savings or checking account?

☒ Yes ☐ No If YES, state total amount \$ 0.02Do you own any real estate, stocks, bonds, notes, automobiles, or  
other valuable property (excluding ordinary household furnishings and  
clothing)? ☐ Yes ☐ No

If YES, give value and describe: Value: Description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_Marital status: Number of Dependents: List persons you actually  
support & your relationship☐ Single☐ Married☐ Widowed☒ Separated or DivorcedDebts & Monthly Bills: (list all creditors, including banks, loan  
companies, charge accounts, etc.)

Creditors:	Total Debt:	Monthly Payment:
Apt. or Home: <u>NONE</u>	\$ _____	\$ _____
<u>I am a fed. prisoner.</u>	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

I certify the above to be correct.

Signature of movant: Joseph Marion Head Junior Date: 1-26-05  
[Prisoners must attach a Certified Statement of Institutional Trust  
Account.]